

## § 40.387

### § 40.387 Penalties and forfeitures.

Anyone who fails to comply with the provisions of this subpart becomes liable to the civil and criminal penalties, and forfeitures, provided by law.

(72 Stat. 1425, 1426; 26 U.S.C. 5761, 5762, 5763)

#### QUALIFICATION REQUIREMENTS FOR MANUFACTURERS

##### *Original Qualifications*

### § 40.391 Persons required to qualify.

Every person who manufactures cigarette paper, or makes up cigarette paper into tubes, except for his own personal use or consumption, must first qualify as a manufacturer of cigarette papers and tubes in accordance with the provisions of this subpart.

[ATF-467, 66 FR 49532, Sept. 28, 2001]

### § 40.392 Bond.

Every person, before commencing business as a manufacturer of cigarette papers and tubes, shall file a bond on TTB F 5200.25 or 5200.26. Such bond shall be filed in accordance with the applicable provisions of §§ 40.401 through 40.410 and conditioned upon compliance with the provisions of 26 U.S.C. Chapter 52, and regulations thereunder, including, but not limited to, the timely payment of taxes imposed by such chapter and penalties and interest in connection therewith for which the manufacturer may become liable to the United States.

(72 Stat. 1421; 26 U.S.C. 5711)

[T.D. ATF-384, 61 FR 54085, Oct. 17, 1996, as amended by T.D. TTB-91, 76 FR 5480, Feb. 1, 2011]

### § 40.393 Power of attorney.

If the bond or any other document required under this part is signed by an attorney in fact for an individual, partnership, association, company, or corporation, by one of the partners for a partnership, or by one of the members of an association, a power of attorney on TTB F 5000.8 shall be furnished to the appropriate TTB officer. If such bond or other document is signed on behalf of a corporation by an officer thereof, it must be supported by duly authenticated extracts of the stock-

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holders' meeting, by-laws, or directors' meeting authorizing such officer to execute such document for the corporation. TTB F 5000.8 or support of authority does not have to be filed again with a appropriate TTB officer where such form or support has previously been submitted to that appropriate TTB officer and is still in effect.

(72 Stat. 1421; 26 U.S.C. 5711)

### § 40.394 Notice of approval of bond.

If the bond required under this subpart is approved by the appropriate TTB officer, a number will be assigned to the factory of the manufacturer of cigarette papers and tubes for internal revenue purposes. The appropriate TTB officer will immediately notify the manufacturer, in writing, of the bond approval, in order that the manufacturer may commence operations.

(72 Stat. 1421; 26 U.S.C. 5711)

##### *Changes after Original Qualifications*

### § 40.395 Change in name.

Where there is a change in the individual, trade, or corporate name of a manufacturer of cigarette papers and tubes, the manufacturer shall, within 30 days of the change, furnish the appropriate TTB officer a written notice of such change.

(72 Stat. 1422; 26 U.S.C. 5722)

### § 40.396 Change in proprietorship.

Where there is to be any change in proprietorship (including a change in the identity of the members of a partnership or association, but excluding any change in stock ownership in a corporation) of the business of a manufacturer of cigarette papers and tubes, the proposed successor shall, before commencing operations, qualify as a manufacturer of cigarette papers and tubes, in accordance with this part. If such manufacturer promptly files the required documentation with the appropriate TTB officer, an administrator, executor, receiver, trustee, assignee, or other fiduciary successor may liquidate the business without qualifying as a manufacturer. The manufacturer must promptly file with

the appropriate TTB officer a statement of the intent to liquidate and furnish a certified copy of the order of the court, or other pertinent documents. These documents must show the appointment and qualification of any administrator, executor, receiver, trustee, assignee, or other fiduciary, together with an extension of coverage of the predecessor's bond executed by the administrator, executor, receiver, trustee, assignee, or other fiduciary and the surety, in accordance with the provisions of § 40.407. The predecessor shall make a closing inventory and closing report in accordance with the provisions of §§ 40.434 and 40.426, respectively, and the successor shall make an opening inventory and opening report, in accordance with the provision of §§ 40.432 and 40.423, respectively.

(72 Stat. 1421, 1422; 26 U.S.C. 5711, 5721, and 5722)

#### § 40.397 Change in location.

Whenever a manufacturer of cigarette papers and tubes contemplates a change in location of a factory within the same region, the manufacturer shall, before commencing operations at the new location, file an extension of coverage of bond in accordance with the provisions of § 40.407. Whenever a manufacturer of cigarette papers and tubes contemplates changing the location of a factory to another region, the manufacturer shall, before commencing operations at the new location, qualify as a manufacturer in the new region, in accordance with the applicable provisions of this subpart, and make a closing inventory and closing report, in accordance with the provisions of §§ 40.434 and 40.426, respectively.

(72 Stat. 1421, 1422; 26 U.S.C. 5711, 5721, and 5722)

#### *Bonds and Extensions of Coverage of Bonds*

#### § 40.401 Corporate surety.

(a) Surety bonds required by this subpart may be given only with corporate sureties holding certificates of authority from, and subject to any limitations prescribed by the Secretary of the Treasury as set forth in the current revision of Treasury Department Cir-

cular No. 570 (Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies). The surety shall have no interest whatever in the business covered by the bond.

(b) Each bond and each extension of coverage of bond shall at the time of filing be accompanied by a power of attorney authorizing the agent or officer who executed the bond to so act on behalf of the surety. The appropriate TTB officer who is authorized to approve the bond may, whenever deemed necessary, require additional evidence of the authority of the agent or officer to execute the bond or extension of coverage of bond. The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed document, it shall be accompanied by a certificate of its validity.

(c) Treasury Department Circular No. 570 is published in the FEDERAL REGISTER annually as of the first workday in July. As they occur, interim revisions of the circular are published in the FEDERAL REGISTER. Copies may be obtained from the Surety Bond Branch, Financial Management Service, Department of the Treasury, Washington, D.C. 20220.

(July 30, 1947, ch. 390, 61 Stat. 648, as amended (31 U.S.C. 9304, 9306); sec. 202, Pub. L. 85-859, 72 Stat. 1421, as amended (26 U.S.C. 5711))

#### § 40.402 Two or more corporate sureties.

A bond executed by two or more corporate sureties shall be the joint and several liability of the principal and the sureties. However, each corporate surety may limit its liability in terms upon the face of the bond in a definite, specific amount, which amount shall not exceed the limitations prescribed for such corporate surety by the Secretary, as set forth in the current revision of Treasury Department Circular 570 (Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies). (See § 40.401(c))